



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899

Mr. Russ Kick
P.O. Box 30453
Tucson, AZ 85751

Dear Mr. Kick:

The letter is the final response to the three Freedom of Information Act (FOIA) requests that you have submitted to the National Institute of Standards and Technology (NIST).

FOIA Log # 03-75:

NIST has conducted a preliminary search for responsive records and has identified 17 documents, totaling approximately 2000 pages, which fall within the category of Records to Be Withheld in their Entirety. These documents are being withheld from disclosure pursuant to the following exemptions:

- FOIA – 5 U.S.C. § 552(b)(3): “Statue provides specific criteria for withholding.” The Federal Acquisition Regulation (FAR), Subpart 24.202 states “A proposal in the possession or control of the Government, submitted in response to a competitive solicitation, should not be made available to any person under the Freedom of Information Act.”
- FOIA - 5 U.S.C. § 552(b)(4): “Trade secrets and commercial and financial information obtained from a person and privileged or confidential.”
- FOIA - 5 U.S.C. § 552(b)(5): “Interagency or intra-agency memorandum or letters which would not be available by law to a party other than an agency in litigation with the agency.” The records are reflective of the deliberative process of NIST. Because the documents are “predecisional,” and “a direct part of the deliberative process in that they make recommendations or express opinions,” they are properly withholdable under the FOIA.

FOIA Log #03-76:

Enclosed you will find one document that has been found to be responsive to your request. This document is supplied at no charge.

FOIA Log #04-06:

Enclosed you will find 66 documents that have been found to be responsive to your request. These documents are also supplied at no charge. Some of the material contained in these documents has been redacted pursuant to FOIA exemption (b) (6) of the FOIA ((5 U.S.C. § 552 (b)(6)), information in personnel and medical and similar files that would clearly constitute a clearly unwarranted invasion of personal privacy.

You have the right to appeal this determination. Such an appeal must be made in writing and received within 30 calendar days of the date on this letter to:

Assistant Counsel for Administration
U.S. Department of Commerce
Room 5870
Washington, D.C. 20230

Your appeal should include a copy of your original request, a copy of this determination, and a statement of the reason(s) you believe this determination to be in error and why these records should be made fully available to you. Both your letter and the envelope in which it is mailed should be prominently marked "Freedom of Information Act Appeal."

Sincerely,



Sharon E. Bisco
Freedom of Information Act Officer

Enclosures

X-Sieve: CMU Sieve 2.2

X-Sender: cauffman@mailserver.nist.gov

X-Mailer: QUALCOMM Windows Eudora Version 4.3.2

Date: Wed, 22 Oct 2003 13:15:20 -0400

To: Elizabeth Simon <elizabeth.simon@nist.gov>

From: "Stephen A. Cauffman" <cauffman@nist.gov>

Subject: Fwd: Cancellation of Solicitation #SB1341-03-Q-0127

Date: Mon, 23 Dec 2002 11:26:04 -0500

To: romena.moy@nist.gov

From: "Stephen A. Cauffman" <cauffman@nist.gov>

Subject: Cancellation of Solicitation #SB1341-03-Q-0127

Cc: Shyam Sunder <sunder@nist.gov>, william.grosshandler@nist.gov, Michael Rubin <mrubin@nist.gov>, Elizabeth Simon <elizabeth.simon@nist.gov>, william.pitts@nist.gov, rgann@nist.gov, charlotte.johnson@nist.gov, sydel.cavanaugh@nist.gov, walter.soverow@nist.gov

Romena,

Please post a cancellation for solicitation #SB1341-03-Q-0127 for Media, Visual and Database Expert with Experience in Obtaining Visual Materials for World Trade Center Disaster Investigation. This requirement will be fulfilled in-house.

Steve

Stephen A. Cauffman
Research Engineer
National Institute of Standards and Technology
Building and Fire Research Laboratory, Structures Division
100 Bureau Drive, Stop 8611
Gaithersburg, MD 20899-8611
Phone: 301-975-6051
Fax: 301-869-6275
E-mail: stephen.cauffman@nist.gov

=====
CONFIDENTIAL AND PREDECISIONAL COMMUNICATION
=====

Record of Actions Taken

FOIA# 03-01 (wrc)

Date	Comments
10/1/02	Request Received by S.Bisco via Email
10/2/02	Acknowledgement Email Sent to Requester
	by S.Rumpf
10/21/02	Sent final WTC exemption letter via
	Fed Ex.
	Closed
	Copies given to:
	M. Heyman
	Legal

UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology

October 21, 2002

Mr. Jim Rosenfield
WNBC-TV
Room 730E
30 Rockefeller Plaza
New York, NY 10112

Dear Mr. Rosenfield,

This letter is in response to your October 1, 2002, Freedom of Information Act (FOIA) request to the National Institute of Standards and Technology (NIST) in which you request all engineering reports forwarded to NIST by Silverstein Properties, Inc. Your request was received at the NIST FOIA Control Desk on October 2, 2002.

Pursuant to the authorities granted by Public Law 107-231, the National Construction Safety Team Act, NIST is currently conducting an investigation into the technical causes of the collapse of the World Trade Center towers.

While NIST has in its possession records which are responsive to your request, these records are currently exempt from disclosure under section (b)(3) of the FOIA (5 U.S.C. Section 552)(b)(3). Exemption (b)(3) permits an agency to withhold records in an agency's possession which are "records that are specifically exempted from disclosure by statute (other than 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld." The statute underlying the (b)(3) exemption, the National Construction Safety Team Act, satisfies section (B), above, by specifying that any information submitted to or received by the National Institute of Standards and Technology or by a particular Construction Safety Team is exempt from disclosure until the final report required under the Act is issued by the Team (Public Law 107-231, Sec. 7(b)). Section 12 of the Act specifically extends coverage of this Act to "the activities of NIST in response to the attacks of September 11, 2001."

Should NIST receive requests for this information after the conclusion of the time period specified in Sec. 7(b), NIST will review those FOIA requests in accordance with the standard Department of Commerce procedures detailed in Title 15 Code of Federal Regulations, Part 4. NIST reserves its rights to claim any additional applicable FOIA exemptions whenever the (b)(3) exemption, upon which this denial is based, ceases to be in effect.

CONTROL#		WRITER:	
SURNAME	DATE	SURNAME	DATE
M. Rubin	MR 10/21		
BFRL	LC 10/21		
Steve Cauffman			

copy
file
Official

NIST maintains a website at <http://wtc.nist.gov> which contains all the information relating to its investigation which NIST is making public at this time. The website is periodically updated.

You have the right to appeal the determination that the records are not subject to disclosure. Such an appeal must be made in writing and filed within 30 calendar days of the date on this letter to:

Assistant Counsel for Administration
U.S. Department of Commerce
Room 5870
Washington, D.C. 20230

Your appeal should include a copy of your original request, a copy of this determination, and a statement of the reason(s) you believe this determination to be in error and why these records should be made fully available to you. Both your letter and the envelope in which it is mailed should be prominently marked "Freedom of Information Act Appeal."

Sincerely,

Sharon E. Bisco
Freedom of Information Act Officer

X-Sieve: CMU Sieve 2.2
X-Sender: bisco@mailserver3.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.0
Date: Mon, 21 Oct 2002 11:56:25 -0400
To: stacy.rumpf@nist.gov
From: Sharon Bisco <sharon.bisco@nist.gov>
Subject: Fwd: WTC FOIA Response Letter

Stacy, FYI. I told Shyam and Steve that media FOIA responses would be coming to them for clearance. Legal should be first, if there is no delay. Also called Mat's secretary and told her to let Mat know that he had a "High priority" e-mail re FOIA for WTC. Thanks, Sharon.

Date: Mon, 21 Oct 2002 11:53:00 -0400
To: Shyam Sunder <sunder@nist.gov>, "Cauffman, Stephen A."
<stephen.cauffman@nist.gov>, <cauffman@nist.gov>
From: Sharon Bisco <sharon.bisco@nist.gov>
Subject: Fwd: WTC FOIA Response Letter

Shyam and Steve, Please see e-mail from Legal about FOIA response. We are preparing the responses to the 2 news media FOIA requests per this attachment and you will get them this afternoon for clearance. Sharon.

X-Sieve: CMU Sieve 2.2
X-Sender: mmadsen@mailserver1.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.0
Date: Mon, 21 Oct 2002 11:40:56 -0400
To: "Bisco, Sharon E. Ms." <sharon.bisco@nist.gov>, <bisco@nist.gov>, "Rumpf, Stacy M." <stacy.rumpf@nist.gov>, <stacy.wenschhof@nist.gov>
From: Mark Madsen <mark.madsen@nist.gov>
Subject: WTC FOIA Response Letter
Cc: "Heyman, Matthew" <matthew.heyman@nist.gov>, <heyman@nist.gov>, michael.rubin@nist.gov, NOConnor@doc.gov

Hello Sharon -

Attached please find a copy of the final version of the FOIA response letter for WTC matters. This version has been cleared by OGC Admin / OGC TA / and NIST Counsel. This is the same version I forwarded to you and Stacy late last week.

I understand that today is the response due-date for the first FOIA request. Let me know if you have any questions.

Regards,

Mark.

Mark S. Madsen
Senior Counsel for Technology Transfer
National Institute of Standards and Technology
Phone: 301 975 2803
Fax: 301 926 6241

PRIVILEGED AND CONFIDENTIAL COMMUNICATION
Attorney-Client Communication
Attorney Work Product



Final Exemption Letter12.doc

[Date]

[Requestor / Address]

Dear [Salutation],

This letter is in response to your [Date], Freedom of Information Act (FOIA) request to the National Institute of Standards and Technology (NIST) in which you request [\$Subject]. Your request was received at the NIST FOIA Control Desk on [Date].

Pursuant to the authorities granted by Public Law 107-231, the National Construction Safety Team Act, NIST is currently conducting an investigation into the technical causes of the collapse of the World Trade Center towers.

While NIST has in its possession records which are responsive to your request, these records are currently exempt from disclosure under section (b)(3) of the FOIA (5 U.S.C. Section 552)(b)(3). Exemption (b)(3) permits an agency to withhold records in an agency's possession which are "(r)ecords that are specifically exempted from disclosure by statute (other than 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld." The statute underlying the (b)(3) exemption, the National Construction Safety Team Act, satisfies section (B), above, by specifying that any information submitted to or received by the National Institute of Standards and Technology or by a particular Construction Safety Team is exempt from disclosure until the final report required under the Act is issued by the Team. (Public Law 107-231, Sec. 7(b)). Section 12 of the Act specifically extends coverage of this Act to "the activities of NIST in response to the attacks of September 11, 2001."

Should NIST receive requests for this information after the conclusion of the time period specified in Sec. 7(b), NIST will review those FOIA requests in accordance with the standard Department of Commerce procedures detailed in Title 15 Code of Federal Regulations, Part 4. NIST reserves its rights to claim any additional applicable FOIA exemptions whenever the (b)(3) exemption, upon which this denial is based, ceases to be in effect.

NIST maintains a website at <http://wtc.nist.gov> which contains all the information relating to its investigation which NIST is making public at this time. The website is periodically updated.

You have the right to appeal the determination that the records are not subject to disclosure. Such an appeal must be made in writing and filed within 30 calendar days of the date on this letter to:

Assistant Counsel for Administration

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Sincerely,

Sharon E. Bisco
Freedom of Information Act Officer

X-Sieve: CMU Sieve 2.2
X-Sender: bisco@mailserver3.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.0
Date: Mon, 21 Oct 2002 11:46:56 -0400
To: stacy.rumpf@nist.gov
From: Sharon Bisco <sharon.bisco@nist.gov>
Subject: Fwd: WTC FOIA Response Letter

Stacy, Go ahead and prepare the 2 FOIA responses for the news media. They need to be cleared by Legal and BFRL (Shyam and or Steve), before I sign them. Mat should get a copy of the responses. Thanks, Sharon.

X-Sieve: CMU Sieve 2.2
X-Sender: mmadsen@mailserver1.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.0
Date: Mon, 21 Oct 2002 11:40:56 -0400
To: "Bisco, Sharon E. Ms." <sharon.bisco@nist.gov>, <bisco@nist.gov>, "Rumpf, Stacy M." <stacy.rumpf@nist.gov>, <stacy.wenschhof@nist.gov>
From: Mark Madsen <mark.madsen@nist.gov>
Subject: WTC FOIA Response Letter
Cc: "Heyman, Matthew" <matthew.heyman@nist.gov>, <heyman@nist.gov>, michael.rubin@nist.gov, NOConnor@doc.gov

Hello Sharon -

Attached please find a copy of the final version of the FOIA response letter for WTC matters. This version has been cleared by OGC Admin / OGC TA / and NIST Counsel. This is the same version I forwarded to you and Stacy late last week.

I understand that today is the response due-date for the first FOIA request. Let me know if you have any questions.

Regards,

Mark.

Mark S. Madsen
Senior Counsel for Technology Transfer
National Institute of Standards and Technology
Phone: 301 975 2803
Fax: 301 926 6241

PRIVILEGED AND CONFIDENTIAL COMMUNICATION
Attorney-Client Communication
Attorney Work Product



Final Exemption Letter11.doc

To: Jim.Rosenfield@nbc.com
From: "Stacy M. Rumpf" <stacy.rumpf@nist.gov>
Subject: FOIA Acknowledgement
Cc: michael.rubin@nist.gov, Sharon Bisco <sharon.bisco@nist.gov>
Bcc: "Cauffman, Stephen A." <stephen.cauffman@nist.gov>, <cauffman@nist.gov>
Attached:

Dear Mr. Rosenfield:

On behalf of Sharon Bisco, I am acknowledging receipt of your Freedom of Information Act (FOIA) request to NIST regarding engineering reports forwarded to NIST by Silverstein Properties, Inc. Your FOIA has been assigned log number 03-01.

Stacy Rumpf
NIST

Dear Ms. Bisco:

This is a request under the provisions of the Freedom of Information Act for all engineering reports forwarded to your agency by Silverstein Properties, Inc.

We understand these reports may be delivered to NIST at different times. We also understand that the first group of reports have now been sent to

your agency and we would like copies of the first group as soon as possible, followed by any subsequent reports as they arrive. It is our understanding

as well that these reports might also include photographs and/or other documentation.

I can be reached via email at Jim.Rosenfield@nbc.com as well as via regular mail at:

Jim Rosenfield
WNBC-TV
Room 730E
30 Rockefeller Plaza
NY, NY 10112

Should you have any questions, my direct line is 212-664-6333.

I look forward to hearing from you.

Sincerely,

Jim Rosenfield
Live at Five Anchor

Stacy M. Rumpf

Management Analyst

National Institute of Standards & Technology
Management & Organization Division
100 Bureau Drive Stop 3220
Gaithersburg, MD 20899-3220
Phone: 301-975-5358
Fax: 301-926-8091

X-Sieve: CMU Sieve 2.2
X-Sender: heyman@mailserver1.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.1
Date: Tue, 01 Oct 2002 17:24:09 -0400
To: Sharon Bisco <sharon.bisco@nist.gov>, stacy.rumpf@nist.gov
From: Mat Heyman <mheyman@nist.gov>
Subject: Re: Fwd: FOIA REQUEST
Cc: michael Rubin <mrubin@nist.gov>, "Cauffman, Stephen A" <stephen.cauffman@nist.gov>, <cauffman@nist.gov>, michael.newman@nist.gov, sunder@nist.gov, snell@nist.gov

PBA needs to work on this with Mike Rubin. You can give the lead to me or to Mike R., I think.

At 05:09 PM 10/1/2002 -0400, Sharon Bisco wrote:

Stacy, Please process. See Phyllis because I think we did a special numbering system for WTC. We usually assign a FOIA number and acknowledge receipt to the requestor giving the requestor the FOIA #. Thanks, Sharon.

X-Sieve: CMU Sieve 2.2
From: "Rosenfield, Jim (NBC, WNBC)" <Jim.Rosenfield@nbc.com>
To: "sharon.bisco@nist.gov" <sharon.bisco@nist.gov>
Subject: FOIA REQUEST
Date: Tue, 1 Oct 2002 15:15:25 -0400
X-Mailer: Internet Mail Service (5.5.2656.59)

Dear Ms. Bisco:

This is a request under the provisions of the Freedom of Information Act for all engineering reports forwarded to your agency by Silverstein Properties, Inc.

We understand these reports may be delivered to NIST at different times. We also understand that the first group of reports have now been sent to

your agency and we would like copies of the first group as soon as possible, followed by any subsequent reports as they arrive. It is our understanding

as well that these reports might also include photographs and/or other documentation.

I can be reached via email at Jim.Rosenfield@nbc.com as well as via regular mail at:

Jim Rosenfield
WNBC-TV
Room 730E
30 Rockefeller Plaza
NY, NY 10112

Should you have any questions, my direct line is 212-664-6333.

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Sincerely,

Jim Rosenfield
Live at Five Anchor

Because e-mail can be altered electronically,
the integrity of this communication cannot be guaranteed.

Mat Heyman
Public and Business Affairs
National Institute of Standards and Technology, DOC
301/975-2758
<http://www.nist.gov>

X-Sieve: CMU Sieve 2.2
X-Sender: bisco@mailserver3.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.0
Date: Tue, 01 Oct 2002 17:44:41 -0400
To: stacy.rumpf@nist.gov
From: Sharon Bisco <sharon.bisco@nist.gov>
Subject: Fwd: Re: Fwd: FOIA REQUEST

Stacy, Please read e-mail from Mat. We need to get BFRL to agree that they are not the lead. Thanks, Shaorn.

X-Sieve: CMU Sieve 2.2
X-Sender: heyman@mailserver1.nist.gov
X-Mailer: QUALCOMM Windows Eudora Version 5.1
Date: Tue, 01 Oct 2002 17:24:09 -0400
To: Sharon Bisco <sharon.bisco@nist.gov>, stacy.rumpf@nist.gov
From: Mat Heyman <mheyman@nist.gov>
Subject: Re: Fwd: FOIA REQUEST
Cc: michael Rubin <mrubin@nist.gov>, "Cauffman, Stephen A." <stephen.cauffman@nist.gov>, <cauffman@nist.gov>, michael.newman@nist.gov, sunder@nist.gov, snell@nist.gov

PBA needs to work on this with Mike Rubin. You can give the lead to me or to Mike R., I think.

At 05:09 PM 10/1/2002 -0400, Sharon Bisco wrote:

Stacy, Please process. See Phyllis because I think we did a special numbering system for WTC. We usually assign a FOIA number and acknowledge receipt to the requestor giving the requestor the FOIA #. Thanks, Sharon.

X-Sieve: CMU Sieve 2.2
From: "Rosenfield, Jim (NBC, WNBC)" <Jim.Rosenfield@nbc.com>
To: "sharon.bisco@nist.gov" <sharon.bisco@nist.gov>
Subject: FOIA REQUEST
Date: Tue, 1 Oct 2002 15:15:25 -0400
X-Mailer: Internet Mail Service (5.5.2656.59)

Dear Ms. Bisco:

This is a request under the provisions of the Freedom of Information Act for all engineering reports forwarded to your agency by Silverstein Properties, Inc.

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your agency and we would like copies of the first group as soon as possible, followed by any subsequent reports as they arrive. It is our

understanding

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Jim Rosenfield
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Jim Rosenfield
Live at Five Anchor

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Mat Heyman
Public and Business Affairs
National Institute of Standards and Technology, DOC
301/975-2758
<http://www.nist.gov>

understanding

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Jim Rosenfield
WNBC-TV
Room 730E
30 Rockefeller Plaza
NY, NY 10112

Should you have any questions, my direct line is 212-664-6333.

I look forward to hearing from you.

Sincerely,

Jim Rosenfield
Live at Five Anchor

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Mat Heyman
Public and Business Affairs
National Institute of Standards and Technology, DOC
301/975-2758
<http://www.nist.gov>

Record of Actions Taken

FOIA# 0308
WTC

UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology

February 3, 2003

Mrs. Kiki Bennett
110 East 59th Street 29th Floor
New York, NY 10022

Dear Mrs. Bennett,

This letter is in response to your January 24, 2003, Freedom of Information Act (FOIA) request to the National Institute of Standards and Technology (NIST) in which you request photos pertaining to the World Trade Center attack on September 11, 2001. Your request was received at the NIST FOIA Control Desk on January 30, 2003.

Pursuant to the authorities granted by Public Law 107-231, the National Construction Safety Team Act, NIST is currently conducting an investigation into the technical causes of the collapse of the World Trade Center towers.

While NIST has in its possession records which are responsive to your request, these records are currently exempt from disclosure under section (b)(3) of the FOIA (5 U.S.C. Section 552)(b)(3). Exemption (b)(3) permits an agency to withhold records in an agency's possession which are "records that are specifically exempted from disclosure by statute (other than 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld." The statute underlying the (b)(3) exemption, the National Construction Safety Team Act, satisfies section (B), above, by specifying that any information submitted to or received by the National Institute of Standards and Technology or by a particular Construction Safety Team is exempt from disclosure until the final report required under the Act is issued by the Team (Public Law 107-231, Sec. 7(b)). Section 12 of the Act specifically extends coverage of this Act to "the activities of NIST in response to the attacks of September 11, 2001."

Should NIST receive requests for this information after the conclusion of the time period specified in Sec. 7(b), NIST will review those FOIA requests in accordance with the standard Department of Commerce procedures detailed in Title 15 Code of Federal Regulations, Part 4. NIST reserves its rights to claim any additional applicable FOIA exemptions whenever the (b)(3) exemption, upon which this denial is based, ceases to be in effect.

CONTROL#	FOIA 03-28	WRITER:	
SURNAME	DATE	SURNAME	DATE
M. Rubin	Waltz 2-6-03		
S. Cauffman	2/10/03		

copy
file
official

NIST maintains a website at <http://wtc.nist.gov> which contains all the information relating to its investigation which NIST is making public at this time. The website is periodically updated.

You have the right to appeal the determination that the records are not subject to disclosure. Such an appeal must be made in writing and filed within 30 calendar days of the date on this letter to:

Assistant Counsel for Administration
U.S. Department of Commerce
Room 5870
Washington, D.C. 20230

Your appeal should include a copy of your original request, a copy of this determination, and a statement of the reason(s) you believe this determination to be in error and why these records should be made fully available to you. Both your letter and the envelope in which it is mailed should be prominently marked "Freedom of Information Act Appeal."

Sincerely,

**Original Signed by
Sharon E. Bisco**

Sharon E. Bisco
Freedom of Information Act Officer

100 Bureau Drive
Stop 8610, Building 226, Room B248
Gaithersburg, MD 20899-8610
Tel.: 301-975-5487
Fax: 301-975-6122

CONFIDENTIAL AND PRE-DECISIONAL COMMUNICATION

X-Sieve: CMU Sieve 2.2
From: Nycbennett@cs.com
Date: Fri, 24 Jan 2003 09:44:32 EST
Subject: WTC photos
To: WTC@nist.gov
X-Mailer: CompuServe 2000 6.0 for Windows US sub 10511

Dear Sir/Madame: January 24, 2003

My name is Kiki Bennett and I am a legal assistant for my husband, Attorney, Richard H. Bennett. We do not have photos of the WTC sight to send you but are respectfully requesting some WTC photos from your collection as it relates to photographs of the building located at 75 Park Place (the corner of Park Place and Greenwich). Our client was an Employee in this building and died as a result of the attack on 9/11. If you do not have photos of this building on 9/11, or a couple of days after 9/11 we would appreciate your recommendations as to where we might find such photos on the web.

We look forward to hearing from you and thank you for your time regarding this request.

Very truly yours,

Kiki A. Bennett, legal assistant

Richard H. Bennett, Attorney at Law
110 East 59th Street 29th Floor
New York, New York 10022
(212) 888-9428

Mark S. Madsen
Senior Counsel for Technology Transfer
National Institute of Standards and Technology
Phone: 301 975 2803
Fax: 301 926 6241

PRIVILEGED AND CONFIDENTIAL COMMUNICATION
Attorney-Client Communication
Attorney Work Product

Record of Actions Taken

FOIA# 03-32

Date	Comments
2/11/03	Rec'd in MTO from BFR L
2/11/03	Standard WIC Response prepared +
2/11/03	Sent to S.Cauffman for concurrence.
2/13/03	Rec'd back from S.Cauffman
2/14/03	Gave to Mike Rubin for concurrence
2/14/03	Mailed response to requester
	(closed)

UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology

FEB 14 2003

Mr. Daniel P. Smulewicz
Attorney-at-Law
44 West 70th Street
New York, NY 10023

Dear Mr. Smulewicz:

This letter is in response to your February 7, 2003, Freedom of Information Act (FOIA) request to the National Institute of Standards and Technology (NIST) in which you request "all correspondence, documents, films, videotapes, photographs, building plans, meeting minutes, records of interviews and other materials concerning 7 World Trade Center...". Your request was received at the NIST FOIA Control Desk on February 11, 2003 and assigned Log # 03-32.

Pursuant to the authorities granted by Public Law 107-231, the National Construction Safety Team Act, NIST is currently conducting an investigation into the technical causes of the collapse of the World Trade Center towers.

While NIST has in its possession records which are responsive to your request, these records are currently exempt from disclosure under section (b)(3) of the FOIA (5 U.S.C. Section 552 (b)(3)). Exemption (b)(3) permits an agency to withhold records in an agency's possession which are "records that are specifically exempted from disclosure by statute (other than 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld." The statute underlying the (b)(3) exemption, the National Construction Safety Team Act, satisfies section (B), above, by specifying that any information submitted to or received by the National Institute of Standards and Technology or by a particular Construction Safety Team is exempt from disclosure until the final report required under the Act is issued by the Team (Public Law 107-231, Sec. 7(b)). Section 12 of the Act specifically extends coverage of this Act to "the activities of NIST in response to the attacks of September 11, 2001."

Should NIST receive requests for this information after the conclusion of the time period specified in Sec. 7(b), NIST will review those FOIA requests in accordance with the standard Department of Commerce procedures detailed in Title 15 Code of Federal Regulations, Part 4. NIST reserves its right to claim any additional applicable FOIA exemptions whenever the (b)(3) exemption, upon which this denial is based, ceases to be in effect.

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NIST maintains a website at <http://wtc.nist.gov> which contains all the information relating to its investigation which NIST is making public at this time. The website is periodically updated.

You have the right to appeal the determination that the records are exempt from disclosure. Such an appeal must be made in writing and filed within 30 calendar days of the date on this letter to:

Assistant Counsel for Administration
U.S. Department of Commerce
Room 5870
Washington, D.C. 20230

Your appeal should include a copy of your original request, a copy of this determination, and a statement of the reason(s) you believe this determination to be in error and why these records should be made fully available to you. Both your letter and the envelope in which it is mailed should be prominently marked "Freedom of Information Act Appeal."

Sincerely,

Sharon E. Bisco
Freedom of Information Act Officer



Federal Emergency Management Agency

Washington, D.C. 20472

January 30, 2003

Daniel P. Smulewicz
Attorney at Law
44 West 70th Street
New York, NY 10023

RE: Freedom of Information Act Log # 03-080

Dear Mr. Smulewicz:

This is in response to your letter dated December 13, 2002, in which you requested, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), all "correspondence, documents, films, videotapes, photographs, building plans, meeting minutes, records of interviews and other materials concerning 7 World Trade Center that were reviewed by the FEMA/American Society of Civil Engineers Building Performance Study Team that prepared Chapter 5 of the World Trade Center Building Performance Study: Data Collection, Preliminary Observations, and Recommendations."

FEMA has no records responsive to your request. The material requested is lodged with the National Institute of Standards and Technology. You may write directly to:

Chief, Structures Division, Building and Fire Research Laboratory
National Institute of Standards and Technology
100 Bureau Drive, Stop 8610
Building 226, Room B164
Gaithersburg, MD 20899-8610

Because we have no responsive records, you have the right to appeal this response within 30 business days of the receipt of this letter to the Headquarters FOIA Officer, FEMA, 500 C Street SW, Room 840, Washington, DC 20472. Please refer to the above FOIA log number and include any additional information you would like considered. Both the letter and the envelope should be marked, "Freedom of Information Act Appeal."

Sincerely,

Ann Springgate
Ann Springgate
Office of General Counsel

Daniel P. Smulewicz
Attorney-at-Law
44 West 70th Street
New York, N.Y. 10023
Ph. (212) 496-2820
Fax (212) 496-5080

February 7, 2003

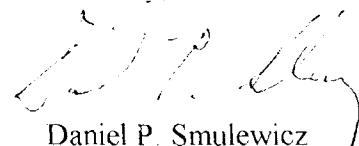
Chief, Structures Division, Building and Fire Research Laboratory
National Institute of Standards and Technology
100 Bureau Drive, Stop 8610
Building 226, Room B164
Gaithersburg, MD 20899-8610

Re: FOIA REQUEST

Dear Sirs and Madams:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), I am requesting all correspondence, documents, films, videotapes, photographs, building plans, meeting minutes, records of interviews and other materials concerning 7 World Trade Center that were reviewed by the FEMA/American Society of Civil Engineers Building Performance Study Team that prepared Chapter 5 of the World Trade Center Building Performance Study: Data Collection, Preliminary Observations, and Recommendations (FEMA 403/May 2002), and any additional material regarding 7 World Trade Center that has been collected in the course of NIST's investigation. If some of these materials are available or accessible now but others not, please send what is available as soon as possible and the remainder later. I am also requesting a waiver of search and copying fees pursuant to 5 U.S.C. 552(a)(4)(A). I made a request to FEMA for the material used in their investigation, but was told your agency has all of it. See 1/30/03 letter from Ann Springgate, FEMA to me (attached). I very much appreciate your time and attention to this matter. Thank you.

Sincerely,



Daniel P. Smulewicz

